

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4382

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for the clean up of municipal waste landfill Superfund sites, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1994

Mrs. JOHNSON of Connecticut (for herself, Mr. FRANK of Massachusetts, and Mr. GEJDENSON) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Public Works and Transportation

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## A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for the clean up of municipal waste landfill Superfund sites, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. STATE PROGRAMS FOR CLEAN UP OF MUNICI-**  
4 **PAL WASTE LANDFILL SUPERFUND SITES.**

5 (a) STATE PROGRAMS.—(1) The Comprehensive En-  
6 vironmental Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9601 et seq.) is amended by adding at  
2 the end of title I the following new section:

3 **“SEC. 127. MUNICIPAL WASTE LANDFILL SITES.**

4 “(a) STATE PROGRAMS.—

5 “(1) IN GENERAL.—Each State may develop  
6 and submit to the Administrator of the Environ-  
7 mental Protection Agency a State program under  
8 which the State will remediate, in accordance with  
9 this section, qualified municipal waste landfills.

10 “(2) SUBMISSION OF PROGRAM.—The Adminis-  
11 trator shall require that State programs under this  
12 section be submitted at such time, in such form, and  
13 in such manner as the Administrator deems appro-  
14 priate. Not later than 180 days after receipt of a  
15 State program, the Administrator shall approve or  
16 disapprove the program. The Administrator shall ap-  
17 prove the program if the Administrator determines  
18 that the program provides for the remediation of  
19 qualified municipal waste landfills in accordance  
20 with the provisions of subsection (b). Upon approval  
21 of such program, the provisions of this title (other  
22 than this section and section 101) shall not apply to  
23 any release or threatened release at any qualified  
24 municipal waste landfill which is covered by such  
25 program. If the program is disapproved, the Admin-

1       istrator shall inform the State of the reasons for the  
2       disapproval and permit the State to correct and re-  
3       submit the program for approval.

4       “(b) REMEDIATION.—The President shall promul-  
5       gate, after opportunity for notice and comment, regula-  
6       tions governing response action under this section. Such  
7       regulations shall provide for a presumptive remedy to pro-  
8       tect public health based on streamlined site characteriza-  
9       tion using the Environmental Protection Agency’s Model  
10      Municipal Landfill Remedial Investigation and Feasibility  
11      Study Guidance and for closure of the site consistent with  
12      subtitle D of the Solid Waste Disposal Act. Such presump-  
13      tive remedy shall include each of the following:

14               “(1) Waste consolidation where feasible if mul-  
15              tiple discrete disposal sites can be more economically  
16              contained in one unit.

17               “(2) Final cover, including a barrier layer with  
18              a permeability equal to  $1 \times 10^{-5}$  cm per second or a  
19              flexible membrane liner of at least 30mm thickness,  
20              and properly maintained vegetative cover. Upon  
21              demonstration, existing caps providing comparable  
22              control may be used or upgraded as needed.

23               “(3) Landfill gas control consistent with sub-  
24              title D of the Solid Waste Disposal Act and where

1 necessary passive gas controls unless gas volumes  
2 and composition require active collection.

3 “(4) Surface water controls.

4 “(5) Control of leachate where feasible and nec-  
5 essary given the landfill’s design and as required by  
6 its contact with ground water.

7 “(6) Ground water monitoring as required by  
8 subtitle D of the Solid Waste Disposal Act.

9 “(7) Where ground water has been impacted by  
10 the site, assurance of no migration of contamination  
11 beyond the facility boundary or, if appropriate,  
12 treatment at point of withdrawal.

13 “(8) Institutional controls to prevent future ex-  
14 posure to waste, including, where appropriate and  
15 consistent with local zoning authority, prohibitions  
16 on the use of private wells on site or on adjacent  
17 properties; creation of buffer zones; use of zoning to  
18 prevent future land uses which would disturb the  
19 site’s final cover. To the maximum extent feasible  
20 and as authorized by the local land control author-  
21 ity, beneficial uses consistent with maintenance of  
22 proper closure should be employed (e.g., use as park-  
23 land, conservation district, active waste management  
24 facility, limited access industrial activity, roadway).

1 Residential use is not permitted at sites employing  
2 presumptive remedies.

3 “(9) Site security to prevent access inconsistent  
4 with closure requirements.

5 “(10) A post-closure care plan that ensures the  
6 maintenance and stability of containment and insti-  
7 tutional control measures for so long as each meas-  
8 ure is necessary to assure the integrity of the rem-  
9 edy.

10 If the President has reason to believe, based on site-spe-  
11 cific risk factors such as records of disposal of significant  
12 quantities of hazardous waste, that the presumptive rem-  
13 edy will not protect human health and the environment,  
14 he shall require additional protections, including but not  
15 limited to, removal of drums or other discrete, accessible  
16 areas of high concentration waste where practicable.

17 “(c) REMEDIATION COSTS.—

18 “(1) REIMBURSEMENT FROM SUPERFUND.—

19 The President shall reimburse each State with an  
20 approved municipal waste landfill remediation pro-  
21 gram for all costs incurred by the State for the re-  
22 mediation, in accordance with subsection (b), of haz-  
23 ardous substances, pollutants and contaminants at  
24 one qualified municipal waste landfill selected by  
25 that State in each year which begins after the enact-

1       ment of this section. The President shall use funds  
2       in the Hazardous Substance Superfund, up to an  
3       amount not exceeding \$2,500,000,000, for purposes  
4       of providing such reimbursement. Reimbursement  
5       shall be provided for costs incurred with respect to  
6       facilities which have a higher public health risk be-  
7       fore reimbursement is provided for costs incurred for  
8       facilities having a lower health risk. No reimburse-  
9       ment shall be provided under this section for any  
10      transaction costs or other related costs.

11           “(2) EFFECTIVE DATE.—Reimbursement under  
12      paragraph (1) shall be provided for any remediation  
13      costs incurred after the date of approval of a State  
14      program under this section if the remediation is in  
15      accordance with such program.

16           “(3) TRANSITION PROVISIONS.—(A) If remedi-  
17      ation commenced before approval of a program  
18      under this section and was not completed before  
19      January 1, 1994, the President shall reimburse each  
20      person who incurred costs for such remediation for  
21      such costs if the President determines that the re-  
22      mediation is consistent with, or provides at least  
23      equivalent protection for public health and the envi-  
24      ronment as, the remediation specified in subsection  
25      (b).

1           “(B) The Administrator may not reimburse any  
2       State or other person for costs incurred for remedi-  
3       ation which was completed before January 1, 1994.

4       “(d) LIABILITY EXEMPTION.—

5           “(1) IN GENERAL.—If a State has an approved  
6       remediation program which covers qualified municipi-  
7       pal waste landfills, no person who is otherwise liable  
8       under this Act or under any other Federal law with  
9       respect to any release or threatened release of a haz-  
10      ardous substance or pollutant or contaminant from  
11      any qualified such landfill shall be subject to liability  
12      to any other person under this Act or any such other  
13      law for injuries, costs, damages, expenses, or other  
14      liability (including claims for indemnification or con-  
15      tribution and claims by third parties for death, per-  
16      sonal injury, illness or loss of or damage to property  
17      or economic loss) that results from such release or  
18      threatened release.

19          “(2) EXCEPTIONS.—(A) The exemption under  
20      this subsection shall not apply in the case of any  
21      landfill at which the remediation was completed be-  
22      fore January 1, 1994.

23          “(B) The exemption under this subsection shall  
24      not apply to any person who violated any Federal,  
25      State, or local law relating to the generation,

1       transporation, or disposal of any solid waste which  
 2       is present at the facility concerned. Any such person  
 3       shall be liable, in the same manner as provided in  
 4       section 107, to the State for any costs incurred by  
 5       the State pursuant to the State program under this  
 6       section; and such person shall be liable to the Ad-  
 7       ministrator in the same manner for any such costs  
 8       for which the Administrator has reimbursed the  
 9       State under this section.

10       “(e) DEFINITION OF MUNICIPAL WASTE LAND-  
 11       FILLS.—For purposes of this section, the term ‘qualified  
 12       municipal waste landfill’ means a landfill listed on the Na-  
 13       tional Priorities List as of the date of enactment of this  
 14       section which is designated by the Administrator as—

15               “(1) a site owned by a municipality or county,  
 16       or

17               “(2) a privately-owned site which has a record  
 18       of receiving municipal waste.

19       The Administrator shall publish a list of such sites within  
 20       30 days after the enactment of this section.”.

21       (2) The table of contents for title I of such Act is  
 22       amended by adding at the end the following new item:

“Sec. 127. Municipal waste landfills.”.

23       (b) USES OF SUPERFUND.—Section 111(a) of the  
 24       Comprehensive Environmental Response, Compensation,  
 25       and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended



1 by inserting after paragraph (6) the following new para-  
2 graph:

3           “(7) REIMBURSEMENT OF COSTS FOR REMEDI-  
4           ATION OF MUNICIPAL WASTE LANDFILLS.—Payment  
5           of not to exceed \$2,500,000,000 for the costs of re-  
6           mediation of municipal waste landfills in accordance  
7           with section 127.”.

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